

NEWPORT BEACH PLANNING COMMISSION MINUTES
Council Chambers – 3300 Newport Boulevard
Thursday, November 3, 2011
REGULAR MEETING
6:30 p.m.

A. CALL TO ORDER – The meeting was called to order at 6:30 p.m.

B. PLEDGE OF ALLEGIANCE – Led by Commissioner Ameri

C. ROLL CALL

PRESENT: Ameri, Hawkins, Hillgren, Myers, Toerge, and Unsworth
ABSENT (EXCUSED): Kramer

Staff Present: Kimberly Brandt, Community Development Director; Leonie Mulvihill, Assistant City Attorney; Tony Brine, City Traffic Engineer; Jaime Murillo, Associate Planner; Melinda Whelan, Assistant Planner; and Marlene Burns, Administrative Assistant

D. PUBLIC COMMENTS

Jim Mosher referenced the minutes from an earlier meeting relative to receiving public comments and the requirements of the Brown Act.

E. REQUEST FOR CONTINUANCES - None.

F. PLANNING COMMISSION APPOINTMENTS TO THE GENERAL PLAN/LOCAL COASTAL PROGRAM IMPLEMENTATION COMMITTEE

Community Development Director Brandt reported that currently there are three (3) seats that the Planning Commission has allocated to the Committee and currently Vice Chair Toerge is the sole representative. The Committee is an ad hoc Committee that has not met in over a year. She added that there are two (2) vacancies and staff felt it appropriate to ask the Chair if he would like to fill these vacancies so that at such time as the Committee were to reconvene there would be full representation.

Vice Chair Toerge affirmed his willingness to continue to be on the Committee.

Discussion followed regarding the schedule of meetings.

Vice Chair Toerge nominated Commissioner Hillgren to the Committee. Commissioner Hawkins seconded the nomination.

Chair Unsworth recommended Commissioner Hillgren and Commissioner Ameri to the Committee.

Interested parties were invited to address the Commission on this item.

Jim Mosher commented on the role of the Committee and referenced the Coastal Land Use Plan which shows two (2) areas within the City that have been excluded for many years from the Coastal Zone and identified these zones. He stated the original Coastal Act allowed such exclusions but only if they were made subject to an order conditioned on there being no future changes in the height, density, or nature of use. He noted that it is no longer a safe assumption for King's Road and part of Mariner's Mile. He encouraged the Committee to work on getting that part of the City back in the Coastal Zone. He also

encouraged the Commissioners to seek certification of the Coastal Program Implementation Plan so that residents do not have to take minor permit matters to the Coastal Commission.

Chair Unsworth appointed Commissioners Hillgren and Ameri to the General Plan/Local Coastal Program Implementation Committee.

G. CONSENT ITEMS

ITEM NO. 1 Minutes of October 20, 2011

Chair Unsworth recused himself from Items No. 2 and 3 because he is a Member of the Newport Beach Country Club.

Commissioner Myers recused himself from Items No. 2 and 3 due to his economic interest in Golf Realty Fund.

They left the dais and the Chambers.

The Minutes were considered in two (2) separate motions.

Motion by Commissioner Hawkins, seconded by Commissioner Hillgren, and carried (4 – 0) with two recusals (Myers and Unsworth) and one absent (Kramer) to approve Items 2 and 3 of the Minutes of October 20, 2011, as corrected.

AYES: Ameri, Hawkins, Hillgren, and Toerge
NOES: None.
ABSENT(RECUSED): Myers and Unsworth (Recused), Kramer (Absent)
ABSTAIN: None.

Chair Unsworth and Commissioner Myers returned to the Chambers and took their place on the dais.

Motion by Commissioner Hillgren, seconded by Commissioner Hawkins, and carried (6 – 0) with one absent (Kramer) to approve Items Nos. 1 and 4 through 9 of the Minutes of October 20, 2011, as corrected.

AYES: Ameri, Hawkins, Hillgren, Myers, Toerge, and Unsworth
NOES: None.
ABSENT(RECUSED): Kramer (Absent)
ABSTAIN: None.

H. PUBLIC HEARING ITEMS

ITEM NO. 2 Housing Element Update - (PA2008-078) 3300 Newport Blvd. Newport Beach

Associate Planner Murillo provided a PowerPoint presentation addressing an explanation of the House Element noting it is the only element that requires review by the State Department of Housing and Community Development. The Plan sets up a seven-year (7) plan to meet the existing and projected housing needs of all economic segments of the community. It identifies constraints to the development of housing and establishes goals, policies, and programs pertaining to housing needs of the City. Mr. Murillo addressed a brief history of the Housing Element including public workshops to provide an opportunity for members of the community to provide feedback. He listed meetings and actions taken since the development of the first draft of the Housing Element in 2008.

Mr. Murillo noted that the State Department of Housing and Community Development (HCD) has preliminarily approved the final draft currently proposed. Upon adoption of the Housing Element by the City Council, HCD will find the City consistent with all statutory requirements of State Housing Element Law. He described the Existing Housing Needs portion of the Housing Element and noted it includes an analysis of population and employment trends, an analysis of household characteristics, housing stock conditions, affordable housing projects and units at risk of conversion to market rate including resources, and programs to preserve those units. It also includes an analysis of special housing needs.

Mr. Murillo presented details of each major component of the Housing Element including Regional Housing Needs Assessment. He noted the City is not required to construct units, but it is required to show good faith effort in assisting in the development of housing and providing adequate sites to accommodate the projected housing needs. Mr. Murillo reported during the previous planning period that the City lost its certification of the Housing Element. Therefore, the State requires the City to carry over its unmet need from the previous planning period to housing projections for this planning period. He added 62 very-low income units and 83 moderate-income units were required to be carried over to this period's housing projection. He addressed total projected units.

Mr. Murillo explained the Site Analysis and Inventory and addressed housing opportunities and constraints regarding development of housing in the airport area. Specifically, Housing Program 3.2.2, which is proposed to address the potential constraint that Land Use Element Policy 6.15.6 poses to the development of affordable housing in the Airport Area due to a 10-acre site consolidation requirement and Housing Program 3.2.3, which is proposed to require the City to amend the Newport Place and Koll Center Planned Communities to allow residential development that includes thirty (30%) percent affordable units, subject to site development review. He addressed that the Housing Element includes other programs related to conservation and improvement of housing, variety of housing opportunities, adequate residential sites, provision and preservation of affordable housing, housing for special needs groups, fair housing and program monitoring. Mr. Murillo referenced the Negative Declaration that was prepared for the project noting that as a result, there are no significant impacts on the environment. He addressed circulation of the document, comments received, and preparation of responses by staff.

In response to Vice Chair Toerge's inquiry, Mr. Murillo reported the time period for review and submission of the Housing Element varies from planning period to planning period.

Commissioner Hawkins reported that he reviewed the document and expressed concerns with HCD's handling of the City's Zoning Code and General Plan. He felt their comments were not definitive regarding striking the 10-acre minimum or provide for revisions or the definition of an SRO. He opined that they were seeking justification as to why these were not constrained. He felt that the City is being required, pursuant to the Housing Element, to amend the General Plan and PC text. He opined there is justification for the overall approach taken with the General Plan and the Code.

Community Development Director Brandt reported the elimination of the 10-acre minimum would be a subsequent action in the implementation of the Housing Element Program. This would be done through a subsequent General Plan Amendment or other waiver provision, such as within the PC text amendment for the two (2) PC areas. She added that while maintaining a site development review requirement, the City has not waived its ability to look at each project on its own merit or its own design to ensure the density and project amenities are appropriate for the area. The intent is to eliminate the zoning code change that would be required since the City currently does not have the ability for a residential project to be proposed without an accompanying Planned Community text amendment for adoption. With the proposed program, a future applicant would be able to approach the City with solely a site development plan.

With regard to the Negative Declaration, Commissioner Hawkins opined that waiving the 10-acre requirement for residential development in the Airport Area results in land use impacts. He also stressed that the City could justify the minimum 10-acre site requirement to HCD.

Chair Unsworth opened the public hearing.

James Kawamura spoke on behalf of himself and an owner in Newport Place noting that they would be affected by the changes. He addressed the elimination of the 10-acre minimum requirement and expressed concerns with the restrictions that were proposed. He spoke in support of eliminating the 10-acre minimum requirement, but expressed concerns with the thirty (30%) percent requirement for affordable housing. Mr. Kawamura inquired regarding the thirty-five (35%) percent density bonus, and the calculation and design of the units eligible for the density bonus.

Mr. Murillo reported that the details of the PC amendment have not yet been worked out, but clarified that the density bonus allowed by the City would be calculated based on the total number of units proposed, including the affordable units. In addition, he stated that the affordable units could be smaller and finished with different materials within the interiors.

In response to Commissioner Hawkins's question, Mr. Murillo noted the General Plan Amendment and/or PC text changes would require follow through and return to the Commission and the City Council.

Community Development Director Brandt responded to Commissioner Hawkins' inquiry clarifying that the Housing Element is a General Plan Amendment. Any subsequent program pursuant to the Housing Element would be reviewed according to an appropriate level. If the Planning Commission in its recommendation to the City Council considers an amendment to the PC text that is in conflict with the Housing Element, it would be appropriate to amend the Housing Element at that time. Depending on what it is, staff may need to resubmit the Housing Element to the State in order to maintain its consistency finding.

Chair Unsworth closed the public hearing.

Motion by Commissioner Hillgren, seconded by Commissioner Ameri, and carried (5 - 1) with one absent (Kramer) to adopt the Resolution recommending adoption of the draft 2008-2011 Housing Element to the City Council and the Negative Declaration.

AYES: Ameri, Hillgren, Myers, Toerge, and Unsworth
NOES: Hawkins
ABSENT(RECUSED): Kramer (Absent)
ABSTAIN: None.

I. NEW BUSINESS

Commissioner Ameri inquired regarding a document received relative to the November 17, 2011, meeting wherein one agenda item will be considered.

J. STAFF AND COMMISSIONER ITEMS

ITEM NO. 3 Community Development Director's report.

Community Development Director Brandt reported that two (2) applications for the Newport Beach Country Club were continued to the November 17, 2011, Planning Commission meeting. She reported the Planning Commission can start at its normal time of 6:30 p.m.

She reported the Lido Village Design Guidelines will be presented to the Ad Hoc Committee next week, November 10, 2011, at 4:00 p.m. in Council Chambers. She added the Housing Element will be presented to the City Council at their meeting of November 22, 2011.

In response to Commissioner Ameri's questions, Ms. Brandt reported that staff has met with the different applicants to discuss different issues and foresees the possibility of good news to report and that progress is being made.

Regarding the Dolphin Striker, Ms. Brandt reported that the Council reviewed the appeals for Bubbles and Dolphin Striker applications. Both were approved by the City Council.

ITEM NO. 4 Announcements on matters that Commission members would like placed on a future agenda for discussion, action, or report - None.

ITEM NO. 5 Request for excused absences.

Commissioner Myers requested to be excused as he will recuse himself on both items being heard at the November 17, 2011, Planning Commission due to the fact that he has an economic interest in Golf Realty Fund.

ADJOURNMENT – 7:23 p.m.